

# EXHIBIT 35

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**From:** Forrest K. Lehman <FLehman@lyco.org>  
**Sent:** 1/17/2020 3:20:06 PM +0000  
**To:** 'paelectiondirectors@yahoogroups.com'  
**CC:** "Boockvar, Kathryn" <kboockvar@pa.gov>  
**Subject:** RE: RE: Absentee Counting

As soon as a county's poll books (whether paper or electronic) pass out of its custody, it will become impossible to manually update them to reflect applications received for absentee and mail-in ballots. For many counties, that date will be days or even weeks before the absentee / mail-in application deadline.

That date will demarcate which absentee and mail-in ballots are countable Election Night, and which are uncountable.

Any voters who apply for an absentee or mail-in ballot after that date will not be reflected in the poll books. They could still show up to vote at the polls on election day with no indication in the poll book that they applied for an absentee or mail-in ballot. I am not depending on my poll workers to catch them. Starting on that date, counties will need to quarantine ballots received from those applicants and could not do anything to open or count them until after they can be compared to the poll books after the election. To attempt to do anything with them on Election Night would be irresponsible and legally perilous. None of that nuance appears to have made it into the story.

Act 77 has created a new, larger universe of "uncountable" ballots. This uncountable universe cannot be fixed by additional money and staff or new procedures as DOS would like to argue. It is a problem of workflow sequencing and ballot custody. The Legislature, the voters, and the media will either be OK with trading away definitive, unofficial results on election night for greater voter convenience, or they will not. At this point in time, with Act 77 what it is, the two values are irreconcilable. A county cannot in good conscience canvass its "uncountable" ballots on Election Night, because doing so would open the door to accidental or deliberate double-voting by absentee and mail-in voters.

Kindest regards,

**Forrest K. Lehman**

**Director of Elections and Registration**



The Office of Voter Services cannot provide legal, tax, or accounting advice. All candidates for public office should solicit advice from a licensed professional in the appropriate field in advance of statutory deadlines and before filing documents with this office. Filers are responsible for ensuring the correctness and completeness of all documents; the Office of Voter Services is not responsible for errors and omissions.

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**From:** paelectiondirectors@yahoogroups.com [mailto:paelectiondirectors@yahoogroups.com]  
**Sent:** Friday, January 17, 2020 10:01 AM  
**To:** 'paelectiondirectors@yahoogroups.com'  
**Cc:** 'Boockvar, Kathryn'  
**Subject:** [paelectiondirectors] RE: Absentee Counting

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So here's my response...

Honorable Sec. Kathy Boockvar,

Your comments in today's Inquirer were as you might expect met with extreme disappointment by many election officials in this state. These comments reflect the typical "one size fits all" mantra that all counties are alike. Short of having a separate facility and an entirely separate staff that would be trained on how to do this and how to interpret election law, it will be virtually impossible for many counties to count the mail-in/absentee ballots on Election Night. Those counties that can accomplish this, the more power to them.

But the law was written to give counties until Friday to begin the count so I don't get the motivation to put undue pressure on counties that might have to do that or provide undue expectations on the public. You've now put many counties in the bull's-eye because you've raised expectations that are not realistic for many jurisdictions. It's unfair and was unnecessary.

Despite your assessment of there not being a lot going on when the polls close – we are normally getting calls from precincts if they're having trouble closing (we had more than 30 in November) – our staff will be busy helping poll workers and then tabulating election day results until at least 11 p.m. We are not going to begin at that time or later to open envelopes and attempt to count critical ballots after a 20-hour day. In addition, if there's a question as to whether somebody voted at the polls we will need the poll books on site in the event a question is raised about someone's absentee/mail-in ballot. Based on decades of law that required voters to go to the polls if they were in their precinct and void their absentee ballot, it's possible a poll worker could mistakenly allow an absentee voter to cast a regular ballot at the precinct and sign the book. We might need to check in some cases to ensure a voter doesn't get to cast two ballots. There is no rush to get the results on election night. We want to get it right, not first, and our job – and the Department of State's – between now and November should be to educate voters on this change in tabulating – not create unrealistic expectations for quick results.

Many of us are very disappointed in this public position being taken. It's not helpful to us at all.

Kindest regards,

**Jeff Greenburg**

*Director of Elections*

*Mercer County Bureau of Elections*

*5 Courthouse*

*Mercer, Pa., 16137*

*724-662-7542*

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**From:** paelectiondirectors@yahoogroups.com <paelectiondirectors@yahoogroups.com>  
**Sent:** Friday, January 17, 2020 9:12 AM  
**To:** 'paelectiondirectors@yahoogroups.com' <paelectiondirectors@yahoogroups.com>  
**Subject:** [paelectiondirectors] RE: Absentee Counting

*There's a period of time when "there's not a lot going on" for elections officials, Boockvar said, after polls close and before the first results start coming in from polling places.*



Kindest regards,

**Forrest K. Lehman**

**Director of Elections and Registration**



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**errors and omissions.**

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**From:** paelectiondirectors@yahoogroups.com  
[mailto:paelectiondirectors@yahoogroups.com]  
**Sent:** Friday, January 17, 2020 9:00 AM  
**To:** 'paelectiondirectors@yahoogroups.com'  
**Subject:** [paelectiondirectors] Absentee Counting

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Great job all!

<https://www.inquirer.com/politics/election/pennsylvania-2020-presidential-election-results-absentee-ballots-20200117.html>

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Posted by: Jeff Greenburg <jgreenburg@mcc.co.mercer.pa.us>

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